

STATE OF ARIZONA

NOV 4 1994

DEPARTMENT OF INSURANCE

DEPARTMENT OF INSURANCE  
By cec

In the Matter of

CONNECTICUT INDEMNITY COMPANY  
EMPLOYEE BENEFITS INSURANCE COMPANY  
FIRE & CASUALTY INSURANCE COMPANY  
OF CONNECTICUT  
SECURITY INSURANCE COMPANY OF HARTFORD

Respondents.

Docket No. 8597

CONSENT ORDER

A rate examination was made of Connecticut Indemnity Company ("CIC"), Employee Benefits Insurance Company ("EBIC"), Fire & Casualty Company of Connecticut ("F&CI") and Security Insurance Company of Hartford ("SIC") as of September 13, 1991 by Rate Examiners for the Arizona Department of Insurance ("ADOI"). These companies are affiliates of the Orion Capital Companies and are hereinafter referred to as the "Respondents". Based upon the examination results, it is alleged that the Respondents have violated the provisions of the Arizona Revised Statutes, Sections 20-357, 20-359, 20-383, 20-385, 20-400.01, 20-448, 20-451, 20-1113, 20-1676, and 20-1677.

The Respondents wish to resolve this matter without formal adjudicative proceedings and hereby agree to a Consent Order.

The Arizona Director of Insurance (the "Director") enters the following Findings of Fact, and Conclusions of Law, which are neither admitted nor denied by Respondents, and the following Order.

.....

.....

.....

1 FINDINGS OF FACT

2 1. Respondents are authorized to transact property and  
3 casualty insurance in Arizona pursuant to Certificates of  
4 Authority issued by the Director.

5 2. The Rate Examiners ("Examiners") were authorized by  
6 the Director to conduct an examination of the Respondents. The  
7 on-site examination was concluded September 13, 1991 and a  
8 Report of Examination ("Report") was written. All policies  
9 examined were effective after August 18, 1987.

10 3. The National Council of Compensation Insurance ("the  
11 NCCI"), a duly licensed rating organization in Arizona, makes  
12 rate filings on behalf of its members with the ADOI. Workers'  
13 compensation ("WC") insurers are required by statute to belong  
14 to a WC rating organization and to adhere to its rates unless  
15 the insurer has filed deviations from these rates. CIC, EBIC,  
16 F&CI and SIC are members of the NCCI. Any reference to the  
17 filings of these Companies, or their "filed rates and rules"  
18 means rates and rules filed with the ADOI by these Companies or  
19 by the NCCI on their behalf. Of these Companies, only CIC  
20 currently has a filed deviation from rates filed by the NCCI.  
21 F&CI withdrew its filed deviation on May 1, 1990.

22 4. The NCCI's Schedule Rating Plan ("Plan") was approved  
23 for use in Arizona July 8, 1982 by the Director. Effective  
24 October 1, 1988, the Plan was amended to require insurers to  
25 include within each WC policy file a completed schedule rating  
26 ("SR") worksheet and loss prevention survey. SIC adopted the  
27 Plan on July 26, 1984. EBIC adopted the Plan on July 1, 1985,  
28 and F&CI adopted the Plan on June 1, 1990.

1           5.    The Examiners found that EBIC failed to completely  
2 document and allocate SR credits and debits in the file of two  
3 (2) WC policies, and SIC failed to completely document and  
4 allocate SR credits and debits in the file of four (4) WC  
5 policies, in violation of Number 6 of the Plan.

6           6.    EBIC failed to include a loss control report in the  
7 file of seven (7) WC policies, and SIC failed to include a loss  
8 control report in the file of two (2) WC policies, within ninety  
9 (90) days of the effective date of the policy, as required by  
10 Number 7 of the Plan.

11           7.    F&CI failed to include the Arizona cancellation  
12 endorsement on one (1) policy, #25-30-85, as did SIC on one (1)  
13 WC policy, #27-06-50. This endorsement was required by the  
14 rating rules filed by the NCCI on behalf of F&CI and SIC.

15           8.    F&CI failed to attach a Tentative Experience  
16 Modification Endorsement to one (1) WC policy, #30-76-78.

17           9.    F&CI failed to file the Retrospective Rating Factors  
18 or Plan Used on one (1) WC policy, #25-30-85, with the NCCI for  
19 its approval, as required by the WC Retrospective Rating Plan  
20 Manual filed by the NCCI on F&CI's behalf.

21           10.   F&CI failed to adequately and correctly complete the  
22 Schedule for Retro-Rated Policies for one (1) WC policy,  
23 #25-30-85. Minimum retrospective premium factors were not shown  
24 in the Schedule, as is required by the Plan.

25           11.   EBIC, FC&I, and SIC are members of the Insurance  
26 Services Office ("ISO"), a property and casualty (P&C) rating  
27 organization duly licensed by the ADOI to file rates on behalf  
28 of its members. ISO files rates on behalf of the Companies, from

1 which the Companies have filed various deviations. These rates  
2 are included in this Order's reference to Respondents' "filings"  
3 and "filed rates and rules".

4 12. The Examiners found that EBIC, FC&I, and SIC developed  
5 premiums for commercial package ("CP") policies issued prior to  
6 September 1, 1987 in a manner not consistent with their ADOI  
7 filings, by:

8 a. applying unfiled (A) rates to one (1) CP policy,  
9 BMP 131008.

10 b. reducing the premiums of one (1) CP policy, BMP  
11 131034, to match competition or meet quotations, as documented  
12 in the policy files.

13 c. classifying risks other than according to  
14 Respondents' filed rules, by:

15 i. adding a coverage type not eligible or filed  
16 with the ADOI, to two manufacturers' and processors' policies,  
17 BMP 131031 and BMP 131008.

18 ii. misclassifying the rating territory in  
19 rating one (1) CP policy, BMP 131031.

20 d. failing to use the correct policy number or  
21 appropriate insuring company designation on two (2) CP policies,  
22 BMP 131012 and BMP 131021.

23 e. failing to apply the correct deductible factor in  
24 rating one (1) CP policy, BMP 131034.

25 f. failing to use the correct exposure base in  
26 rating two (2) CP policies, BMP 131012 and BMP 131031.

27 . . . . .

28 . . . . .

1           g.    failing to use correct property rates (such as  
2   class rate or fire rate) on three (3) CP policies, BMP 131034,  
3   BMP 131012, and BMP 131021.

4           h.    issuing three (3) CP policies in which the  
5   insureds were charged for a coverage or location not shown on  
6   the policy or on the liability schedule.

7           i.    failing to apply the correct filed rate to one  
8   (1) CP policy, BMP 131012.

9           j.    applied prior revision rates to one (1) CP  
10   policy, BMP 131012.

11          k.    applying unfiled deviations to two (2) CP  
12   policies, BMP 131031 and BMP 131008.

13          l.    failed to use correct increased limits factors on  
14   two (2) CP policies, BMP 131031 and BMP 131008.

15          Respondents rated the policies of other insureds having  
16   substantially like insuring, risk and exposure factors in  
17   accordance with their filed rates and rules.

18          13. Respondents have filed, and ISO has filed on  
19   Respondents' behalf, experience rating ("ER") and SR plans which  
20   apply to GL policies. The Examiners found that Respondents did  
21   not develop premiums in accordance with the ER and SR plans, by:

22           a.    filing credits which exceeded the maximum  
23   allowable for an individual risk characteristic under the SR  
24   Plan on one (1) CP policy, BMP 131021.

25           b.    failing to apply ER to one (1) eligible CP  
26   policy, #BMP 131004.

27           c.    applying an unfiled schedule-type credit to one  
28   (1) CP policy, BAC 252935.

1 Respondents rated the policies of other insureds having  
2 substantially like insuring, risk and exposure factors in  
3 accordance with their filed rates and rules.

4 14. Respondents failed to adequately document the facts  
5 supporting ER and SR adjustments to full manual premium, by:

6 a. failing to include adequate justification for SR  
7 credits given on one (1) CP policy, #BMO 219567.

8 b. failing to document any facts supporting IRPM, ER  
9 and SR credits and debits applied to two (2) CP policies, #BAC  
10 201155 and BMO 185348.

11 c. failing to document justification for the removal  
12 of SR and IRPM credits at the renewal of one (1) CP policy, #BMP  
13 131004.

14 15. F&CI failed to send notices of premium increase or  
15 policy change at least 60 days in advance of the premium  
16 increase or policy changes to six (6) CP policyholders. SIC  
17 failed to send notices of premium increase or policy change at  
18 least 60 days in advance of the premium increase or policy  
19 changes to seventy (70) PL policyholders.

20 16. F&CI failed to send notices of nonrenewal to 41 CP  
21 policyholders at least sixty (60) days prior to policy  
22 expiration dates.

23 17. F&CI failed to attach the Arizona cancellation  
24 endorsement to nine (9) CP policies. SIC failed to attach the  
25 Arizona cancellation endorsement to 123 PL policies.

26 18. SIC failed to attach the Arizona Countersignature  
27 Endorsement to 18 PL policies.

28 . . . . .

1           19. SIC issued Architects/Engineers and Certified Public  
2 Accountants professional liability policies through one (1)  
3 agent. These policies were not made available through SIC's  
4 other Arizona agents who were authorized by SIC to handle GL  
5 insurance.

6                           CONCLUSIONS OF LAW

7           1. In fifteen (15) of the 348 WC files reviewed, the  
8 Examiners found that EBIC and SIC violated either A.R.S. §§  
9 20-357(E), 20-359(A), 20-400.01(A) or 20-400.01(B). These  
10 examined policies were either not issued in accordance with EBIC  
11 and SIC filings; or developed premiums on the basis of  
12 inadequately documented adjustments to full manual premiums  
13 developed for WC risks.

14           2. By failing to include the Arizona Cancellation  
15 Endorsement in one (1) WC policy and the Tentative Experience  
16 Modification Endorsement in one (1) WC policy, by failing to  
17 file the retrospective rating factors or plan used on one (1) WC  
18 policy, and by failing to show minimum retrospective premium  
19 factors in the Schedule for Retro-Rated Policies completed for  
20 one (1) WC policy, FC&I failed to issue those policies in  
21 accordance with their filings and the filings made on their  
22 behalf, in violation of A.R.S. § 20-357(E).

23           3. FC&I violated A.R.S. § 20-385(A) by failing to file  
24 all rating systems used for one (1) CP policy, including its  
25 Guide (A) rates and deviations therefrom with the ADOI.

26           4. EBIC, FC&I, and SIC violated A.R.S. § 20-400.01(A) by  
27 erroneously developing premiums for commercial risks in a  
28 . . . . .

1 manner not consistent with filings made by them pursuant to  
2 A.R.S. § 20-385(A).

3 5. By reducing the premiums of one (1) CP policy to match  
4 competition or meet quotations, Respondents calculated the  
5 premium charged of an insured differently than premium charged  
6 other insureds having substantially like insuring, risk and  
7 exposure factors, or expense elements, in violation of A.R.S. §§  
8 20-383(A) and 20-448(C). Respondents gave an unfiled discount  
9 to that insured in violation of A.R.S. § 20-451.

10 6. By making adjustments to full manual premiums  
11 developed for commercial risks without adequately documenting  
12 facts supporting the adjustments in policy files, Respondents  
13 violated A.R.S. § 20-400.01(B). By developing premiums based  
14 upon these undocumented adjustments, Respondents violated A.R.S.  
15 § 20-400.01(A).

16 7. By misclassifying commercial risks and determining  
17 their rates on the basis of the misclassifications, Respondents  
18 violated A.R.S. §§ 20-400.01(B) and (C). By developing premiums  
19 based upon these undocumented adjustments, Respondents violated  
20 A.R.S. § 20-400.01(A).

21 8. By failing to send notices of premium increase, change  
22 in deductible or substantial reduction in coverage of CP and PL  
23 policies at least sixty (60) days before the expiration date of  
24 the policy, FC&I and SIC violated A.R.S. § 20-1677(A).

25 9. By failing to send notices of nonrenewal to CP  
26 policyholders at least sixty (60) days before the expiration  
27 date of their policies, FC&I violated A.R.S. § 20-1676(B).

28 . . . . .



1           10. By failing to attach the Arizona Cancellation  
2 Endorsement and the Arizona Countersignature Endorsement to  
3 their policies, EC&I and SIC violated A.R.S. § 20-1113(B).

4           11. By issuing Architects/Engineers and Certified Public  
5 Accountants policies through an agent authorized to market  
6 professional liability policies exclusively, and not making such  
7 policies available to SIC agents, SIC did not not violate A.R.S.  
8 § 20-460, because no other agents of SIC were authorized to  
9 write similar types of insurance coverage.

10           12. Grounds exist for the Director to suspend the  
11 Certificates of Authority of EBIC, F&CI and SIC pursuant to  
12 A.R.S. §20-220.

13           13. Grounds exist for the entry of all other provisions of  
14 the following Order.

15                               ORDER

16           Respondents having admitted the jurisdiction of the  
17 Director to enter the Order set forth herein, having waived the  
18 Notice of Hearing, and having consented to the entry of the  
19 Order set forth hereinafter, and there being no just reason for  
20 delay:

21                       **IT IS HEREBY ORDERED THAT:**

22           1. Respondents shall cease and desist from failing to  
23 adhere to all provisions of the WC Plan; from using rating  
24 procedures which result in certain insureds' paying different  
25 premiums than others having substantially like insuring, risk  
26 and exposure factors; from offering any reduction of premium as  
27 inducement to insurance; from classifying risks other than  
28 pursuant to filed rates and rules; from charging rates other

1 than those filed with the ADOI; from failing to file rates and  
2 rules with the ADOI; from failing to develop and document  
3 premiums in accordance with ER and SR plans; from failing to  
4 attach filed endorsements to policies as required by their  
5 filings; from failing to document insureds' acceptance of  
6 Retrospective Rating Plans as required by their filed  
7 Retrospective Rating Plan Manual; from failing to show minimum  
8 retrospective premium factors in the Schedule for Retro-Rated  
9 Policies completed for each policy; from classifying risks other  
10 than according to their filed rates and rules; from failing to  
11 send notices of PL and CP premium increase, policy change or  
12 policy nonrenewal at least sixty (60) days prior to the  
13 expiration date; and SIC shall, consistent with the meaning of  
14 A.R.S. § 20-460, refrain from offering an insurance program to  
15 an exclusive agent without offering the same insurance program  
16 through all other agents authorized for similar types of  
17 insurance coverage.

18 2. Within ninety (90) days of this Order's filed date,  
19 Respondents shall submit to the Director written action plans to:

20 a. monitor Arizona issued policies to ensure that  
21 personnel use only rates, rating plans and rating rules which  
22 have been filed with the ADOI by Respondents or on their behalf;  
23 that personnel document the facts in such detail that the facts  
24 support any credits/debits used to develop the premiums; that  
25 the NCCI worksheet is completed for WC policies and dated, and  
26 includes documentation of risk characteristics supporting the  
27 credit/debit applied under the Plan, and that filed rates and  
28 ER/SR plans, where applicable for insurance programs currently

1 being written, are applied consistently according to filed plans  
2 between insureds having like insuring, risk, exposure and  
3 expense factors.

4 b. provide on-going training for all commercial  
5 underwriting personnel in all provisions of the statutes cited  
6 in this Order, including adherence to ER and SR plans and  
7 application of ER and SR, if applicable to the Respondents'  
8 current business, to all eligible insureds. This training shall  
9 include training in the documentation of policy files with  
10 information sufficient for the Examiners to verify how premiums  
11 were determined.

12 3. The ADOI shall be permitted, through authorized  
13 representatives, to verify Respondents have fully complied with  
14 all requirements of this Order, and the Director may separately  
15 order Respondents to comply.

16 4. Respondents shall pay Fifteen Thousand Dollars  
17 (\$15,000.00) to the Director for remission to the State  
18 Treasurer for deposit in the State General Fund in accordance  
19 with A.R.S. §20-220 (B). Said amount shall be provided to the  
20 Administrative Law Division of the ADOI on or before November 1,  
21 1994.

22 . . . . .

23 . . . . .

24 . . . . .

25 . . . . .

26 . . . . .

27 . . . . .

28 . . . . .

1           5.    The September 13, 1991 Report of Examination, to  
2 include any objections to the Report by Respondents, shall be  
3 filed with the ADOI.

4 DATED at Phoenix, Arizona this 4th day of November, 1994.

5  
6 

7 Chris Herstam  
8 Director of Insurance  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

• • • • •

1           7. DANIEL BARRY represents that as  
2 Senior Vice President he is an officer of Respondents, Connecticut  
3 Indemnity Company, Employee Benefits Insurance Company, Fire &  
4 Casualty Company of Connecticut and Security Insurance Company  
5 of Hartford and that, as such, he is authorized by them to enter  
6 into this Consent Order on their behalf.

7                               CONNECTICUT INDEMNITY COMPANY  
8                               EMPLOYEE BENEFITS INSURANCE COMPANY  
9                               FIRE & CASUALTY INSURANCE COMPANY OF  
10                              CONNECTICUT  
11                              SECURITY INSURANCE COMPANY OF HARTFORD

12                              10/17/94

13                              (Date)

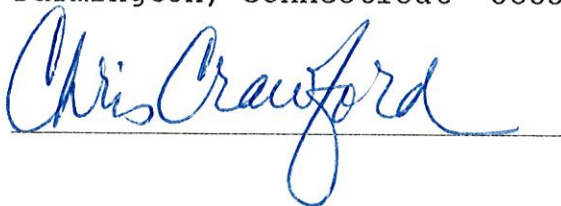
14                              Daniel Barry

1  
2 COPY of the foregoing mailed/delivered  
this 4th day of November , 1994, to:

3 Gay Ann Williams  
4 Deputy Director  
Gregory Y. Harris  
5 Chief Administrative Law Judge  
Erin Klug  
6 Manager  
Market Conduct Examinations Division  
7 Saul Saulson  
Supervisor  
8 Examinations Section  
Bernard Hill  
9 Supervisor  
Property and Casualty Section  
10 Deloris E. Williamson  
Assistant Director  
Rates & Regulations Division  
11 Gary Torticill  
Assistant Director and Chief Financial Examiner  
12 Corporate & Financial Affairs Division  
Cathy O'Neil  
13 Assistant Director  
Consumer Services and Investigations

14  
15 DEPARTMENT OF INSURANCE  
2910 North 44th Street, Suite 210  
Phoenix, AZ 85018

16  
17 Neil Groberg  
Assistant Vice President  
Assistant General Counsel  
18 Orion Capital Companies  
9 Farm Springs Drive  
19 Farmington, Connecticut 06032

20   
21  
22  
23  
24  
25  
26  
27  
28